HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

PATENT APPLICATION

ATTORNEY DOCKET NO. 10013227-1

Inventor(s): Travis J. Parry

Confirmation No.: 5318

Application No.: 09/991,755

Examiner: Gabriel I. Garcia

Filing Date: November 19, 2001

Group Art Unit: 2625

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Title:

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PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Transmitted herewith is/are the following in the above-identified application:

- ☐ Response/Amendment
- ☐ New fee as calculated below
- ☐ No additional fee
- ☒ Other Notice of Appeal(1pg); Pre-Appeal Brief Request(4pgs); Com. Re: Reply (2pgs) Fee$
- ☐ Petition to extend time to respond
- ☐ Supplemental Declaration

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY

(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X $52	$ 0
INDEP. CLAIMS		MINUS		= 0	X $210	$ 0
☐ FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ $370	$ 0
EXTENSION FEE	☐ 1st Month $120	☐ 2nd Month $460	☐ 3rd Month $1050	☐ 4th Month $1640		$ 0
					OTHER FEES	$
					TOTAL ADDITIONAL FEE FOR THIS AMENDMENT	$ 0

Charge $ 0 to Deposit Account 08-2025. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

☒ A duplicate copy of this transmittal letter is enclosed.

I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number (571) 273-8300.
Date of facsimile: February 27, 2007

Typed Name: Charlene M. Burl

Signature:

Respectfully submitted,

Travis J. Parry

By

Thomas W. Leffert

Attorney/Agent for Applicant(s)

Reg No. : 40,697

Date : February 27, 2007

Telephone : (612) 312-2200

Rev 10/06 (TransAmdFax)

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Thomas W. Leffert
Attorney/Agent for Applicant(s)
Reg No.: 40,697
Date: February 27, 2007
Telephone: (612) 312-2200

Rev 10/06 (TransAmdFax)

First Named Inventor	Travis J. Parry
Serial No.	09/991,755
Filing Date	November 19, 2001
Group Art Unit	2625
Examiner Name	Gabriel I. Garcia
Confirmation No.	5318
Attorney Docket No.	10013227-1

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Title: METHOD AND APPARATUS JOB RETENTION

Mail Stop: AF
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P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Advisory Action mailed February 7, 2007 and the Final Office Action mailed October 6, 2006, please consider the following in the Pre-Appeal Brief Request for Review:

REMARKS

Interpretation of the Brandkamp Reference

Appellant contends that there is clear error in the Examiner's interpretation of the primary reference (U.S. Patent No. 5,898,821 to Brandkamp) as used in support of each rejection. In particular, the Examiner's interpretation of the Brandkamp reference is in direct conflict with an express definition of Appellant's Specification and with the teachings of the Brandkamp reference itself. As such, Appellant contends that each rejection is improper.

Each of Appellant's independent claims, i.e., claims 1, 10 and 16, requires receiving and/or acting upon an archive file. The archive file is further limited in each independent claim to contain one or more print jobs that are not in a print-ready format. The Final Office Action asserts that the PDLs of the Brandkamp reference correspond to Appellant's print jobs that are not in a print-ready format. Final Office Action, page 2, section 2, second paragraph.

Brandkamp expressly states that its "PDL of Print Data File 63 is either written in Postscript Registered TM ('PS') or Hewlett Packard Printer Control Language ('HP-PCL')." Brandkamp, column 4, lines 51-53. However, Appellant expressly defines Post Script and Printer Control Language formats to be print-ready formats. *See, e.g.*, Specification, paragraph 0017 ("In one embodiment, print-ready format includes Printer Control Language, Post Script File, graphical language (i.e. Hewlett Packard graphical language), or the like."). Thus, the Office's interpretation of Brandkamp's PDLs as not being in a print-ready format is in direct conflict with Appellant's express definition.

Appellant contends that because Appellant has expressly defined Post Script and Printer Control Language formats as being print-ready formats, the Office cannot deem these formats not to be print-ready formats. Where an explicit definition is provided by the Appellant for a term, that definition will control interpretation of the term as it is used in the claim. MPEP § 2111.01(III) (*citing* Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999)). Appellant thus contends that the PDLs of the Brandkamp reference must be read to be in a print-ready format.

Furthermore, the Examiner admits that the formats of Brandkamp's PDLs are print-ready formats. *See.* Final Office Action, page 3, first paragraph ("Regarding claim 3, Brandkamp discloses an imaging device (35-1) wherein the print-ready format is one of Printer Control

Language, Postscript, and graphical language (Col. 4 lines 51-54)."). Thus, the Office Action is self-contradictory in that the Examiner is identifying Brandkamp's PDLs as being print jobs not in a print-ready format when used in some rejections, but as being print jobs in a print-ready format in support of other rejections. Appellant contends that a PDL cannot be both in a print-ready format and not in a print-ready format as these two definitions are mutually exclusive.

In addition, Brandkamp clearly is acting upon print jobs that are already in a print-ready format. For example, in the description of its operation, the process of Brandkamp first determines whether the subject print job includes bitmaps that are incompatible with a target printer to which the job is to be transmitted. Brandkamp, column 6, lines 13-15. However, Brandkamp expressly states that incompatibility does not relate to an inability to print, but only to a perceived print quality. Brandkamp, column 6, lines 15-19 ("The word 'incompatible', as used in the present description, refers to a situation in which the subject job can be printed at the target printer, but the image quality of the included halftone(s) tends to be less than optimal."). Furthermore, the process of Brandkamp can pass its print jobs to the target printer without processing or alteration if it is determined that the print job would result in optimal quality of halftones as presented, or if there are no halftones present. *See,* Brandkamp, Figure 4 and accompanying text. Thus, it is evident that Brandkamp's print jobs are already in a print-ready format prior to processing, and that the processing of Brandkamp does not change the print-ready status of the print jobs.

Appellant notes that each of the independent claims recites an archive file containing one or more print jobs that are not in a print-ready format. Appellant has shown that, contrary to the assertions of the Final Office Action, the PDLs of Brandkamp cannot correspond to Appellant's print jobs that are not in a print-ready format, but are instead already in a print-ready format. Accordingly, Appellant contends that each of the rejections must fail as there is no reasonable basis for the interpretation of the Brandkamp reference as used in support of each rejection.

Claim 1 recites, in part, "perform operations based on the archive file type, wherein each archive file comprises one or more print jobs that are not in a print-ready format." Claim 10 recites, in part, "receiving an archive file containing one or more print jobs not in a print-ready format." Claim 16 recites, in part, "receiving an archive file containing one or more print jobs that are not in a print-ready format." In view of the foregoing, Applicant contends that claims 1, 10 and 16 are patentably distinct from the Brandkamp reference in that there is no teaching or

suggestion to receive an archive file, or to perform operations based on an archive file type, as those terms are used in Appellant's Specification and claims. Appellant further contends that the various secondary references do not purport to address the issue of archive files containing print jobs not in a print-ready format, and therefore fail to cure the deficiencies of the Brandkamp reference. Appellant thus contends that each rejection is based upon an erroneous interpretation of the Brandkamp reference and is therefore improper. For a more detailed discussion of individual rejections, the Review Panel is invited to review Appellant's prior response mailed December 6, 2006.

CONCLUSION

In view of the above remarks, Appellant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case. Please charge any further fees deemed necessary or credit any overpayment to Deposit Account No. 08-2025.

If the Examiner or the Review Panel has any questions or concerns regarding this application or request, please contact the undersigned at (612) 312-2204.

Respectfully submitted,

Date: 27 FEB 07

Thomas W. Leffert
Reg. No. 40,697

Attorneys for Appellant
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 East Harmony Rd.
Fort Collins, CO 80527-2400

First Named Inventor	Travis J. Parry	COMMUNICATION REGARDING PERIOD FOR REPLY
Serial No.	09/991,755	
Filing Date	November 19, 2001	
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Examiner Name	Gabriel I. Garcia	
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Attorney Docket No.	10013227-1	
Title: METHOD AND APPARATUS JOB RETENTION		

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Commissioner for Patents
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The Advisory Action mailed February 7, 2007 states that the period for reply expires three months from the mailing date of the final rejection, or January 6, 2007. However, Appellant contends that the response to the Final Office Action mailed October 6, 2006 was timely filed on December 6, 2006, within two months of the mailing date of the Final Office Action. Appellant has enclosed a courtesy copy of the Transmittal Letter for that response having a date stamp showing receipt by the Office on December 6, 2006. Because Appellant timely filed the response within two months of the Final Office Action, Appellant contends that it is entitled to a period of reply expiring on the mailing date of the Advisory Action, or February 7, 2007.

In view of the foregoing, the accompanying Petition for Extension of Time requests only a one-month extension from February 7, 2007, the mailing date of the Advisory Action, thereby extending the period of reply to March 7, 2007.

Respectfully submitted,

Date: 27 FEB 07

Thomas W. Leffert
Reg. No. 40,697

Attorneys for Appellant
HEWLETT-PACKARD COMPANY
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3404 East Harmony Rd.
Fort Collins, CO 80527-2400

DEC 0 6 2006

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Fort Collins, Colorado 80527-2400

PATENT APPLICATION

ATTORNEY DOCKET NO. 10013227-1

Inventor(s): Travis J. Parry

Application No.: 09/991,765

Filing Date: November 19, 2001

Confirmation No.: 5318

Examiner: Gabriel I. Garcia

Group Art Unit: 2625

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Fees

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Express Mail Label No.: EV 836369165 US

Date of Deposit: December 6, 2006

Typed Name: Charlene M. Burt

Signature:

I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CRF 1.10 on the date indicated above and is addressed to: Commissioner for Patents, Alexandria, VA 22313-1450

Respectfully submitted,

Travis J. Parry

By

Thomas W. Leffert

Attorney/Agent for Applicant(s)

Reg No.: 40,697

Date: December 6, 2006

Telephone: (612) 312-2200

Rev 10/06 (TransAmdExp)